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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th Day of May 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIHAH

WRIT PETITION NO.926/1997

Between:

Boragatti Basavaraj,
S/o.Basappa, Major,
Agriculturist,
resident of Amalapur
Village, Kudligi Taluk,
Bellary District.

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...PETITIONER

(By Sri.D.R.Rajashekarappa, Adv.)

And:

1. Nimballi Sharanappa,
S/o.Chennabasappa,
Major, Agriculturist
resident of Amalapur
Village, Kudligi Taluk,
Bellary District.

2. The Secretary,
Grama Panchayath,
Choudapur village,
Kudligi Taluk,
Bellary District.

3. The Assistant Commissioner,
Hospet Sub-Division,
Hospet, Bellary District.

...RESPONDENTS

(By Sri.K.Nagaraja, HCGP for R-1 to R-3)

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This Writ Petition is filed under Articles 226 and 227 of the Constitution of India with a prayer to quash the order dated 19.12.1996 vide Annexure 'G' and licence vide Annexure 'E' dt. 28-3-94.

This Writ Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:

O_R_D_E_R

The petitioner ~~in this Writ Petition~~ has challenged the grant of licence made by the 2nd respondent in favour of the 1st respondent by way of an appeal before the Assistant Commissioner. The Assistant Commissioner dismissed the appeal by his order dated 19.12.1996 holding no appeal is provided as against the grant of licence to construct the building. This order is under challenge in this Writ Petition.

2. Any order passed under sub-section(1) of Section 64 is appealable ^{under} ~~over~~ Section 64(5) of the Act. Therefore, the Assistant Commissioner was not right in rejecting the appeal on the ground

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that no appeal is provided. Therefore, in my opinion, the matter requires reconsideration.

In the result, I pass the following order:

3. The Writ Petition is allowed. The order of the Assistant Commissioner dated 19.12.1996 produced as Annexure-G is quashed. The matter is remitted to the Assistant Commissioner, Hospet sub-division, Hospet to dispose of the appeal afresh after due notice to all the parties concerned.



Sd/-
JUDGE

sps/*